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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,140	09/22/2003	Naoki Mochizuki	Q77096	5800

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EXAMINER

ADAMS, CHARLES D

ART UNIT	PAPER NUMBER
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/665,140	Applicant(s) MOCHIZUKI, NAOKI	
	Examiner Charles D. Adams	Art Unit 2164	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the limitations found in the preamble of independent claim 1 deserve patentable weight. However, as pointed on in the Office Action dated 16 Septmber 2006, section 10, the preamble need not be given weight. The preamble, as written, merely recites intended use of various objects of the system. In addition to this, the sentence "said data processing apparatus for merging data of the image obtained by said medical imaging apparatus and the examinational information data from said server into data in a predetermined format" is one that describes an intended use of the data processing apparatus, as the data processing apparatus exists for doing something. As cited in from MPEP 2106 Section II(C) in the last Office Action, items of intended use do not receive patentable weight.

Applicant argues that the items under MPEP 2106, Section II(C) that recite a conditional "when" should receive patentable weight. This argument is correct, and those arguments are hereby withdrawn. However, the Examiner notes that art was still used in the rejection of those claims, even if the conditionals receive weight. As such, the Final Rejection still stands.

Applicant argues that Akagi does not teach "only when the newly read examinational information data have not been stored in said local database". This argument is incorrect. As found in Akagi, "when order information in server 10 is judged by the comparison like this to have been changed, the radiographing apparatus 20 updates order information stored in memory 21 in a form of converting into order information read out of server 10". The local information is updated when the information has been changed (the changed information hasn't been transmitted to the local memory yet) Akagi later teaches that it is 'possible' to implement a timed update method. However, as this is only listed as possible, Akagi fully teaches that one could update the database only when newly read examinational information (changed data) haven't been stored in the database.

Applicant argues that Akagi in view of Banks does not teach any merging of examinational information from a server and medical imaging data into a predetermined format. However, the cited portion of Banks, and Figure 6 (referred to in the cited portion of Banks), one may see that medical imaging data is displayed in the same interface (merged on the screen) with examinational information data that describes the medical imaging data.

Applicant argues that Akagi in view of White does not teach the deletion of records, noting that "the deletion of records, for example, is provided at the behest of the radiologist rather than by the apparatus". The claim reads "wherein the medical imaging apparatus sends an end imaging signal to the server". The apparatus is still sending an "end imaging signal" to the server, regardless of who or what conditions initiated the signal.


CHARLES RONES
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